

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3165
Administrative Law Judge Division
January 12, 2006

RESOLUTION

RESOLUTION ALJ 176-3165. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3165 (1/12/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-12-011 PACIFICORP (U 901 E), an Oregon Corporation, for a Permit to Construct the Line 75 115 kV Conversion Project pursuant to General Order 131-D.	Ratesetting	Ratesetting	YES
A05-12-012 CALIFORNIA WATER SERVICE COMPANY (U 60 W), GRAND OAKS WATER COMPANY (U 290 W), to transfer ownership of the assets, including but not limited to the Certificate of Public Convenience and Necessity, of Grand Oaks Water Company (U 290 W) to California Water Service Company (U 60 W) under certain terms and conditions.	Ratesetting	Ratesetting	NO
A05-12-014 SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E), for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project.	Ratesetting	Ratesetting	YES
A05-12-015 N.V. KONINKLIJKE NEDERLANDSCHE PETROLEUM MAATSCHAPPIJ, ROYAL DUTCH SHELL PLC, SHELL CALIFORNIA PIPELINE COMPANY, LLC, SHELL PETROLEUM N.V., THE SHELL TRANSPORT AND TRADING COMPANY, LIMITED, for expedited, Ex Parte authorization to transfer control of Shell California Pipeline Company, LLC, pursuant to Public Utility Code Section 854(a).	Ratesetting	Ratesetting	NO
A05-12-016 IELEMENT TELEPHONE OF CALIFORNIA, INC., for a Certificate of Public Convenience and Necessity to provide Limited Facilities-based and Resold Local Exchange, IntraLATA and InterLATA Interexchange Telephone Service in all SBC California, Verizon California, Citizens Telephone and SureWest Telephone local exchange areas.	Ratesetting	Ratesetting	NO
A05-12-018 SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E), for authorization to recover costs incurred in 2004 and recorded in the Bark Beetle Catastrophic Event Memorandum Account.	Ratesetting	Ratesetting	YES
A05-12-019 ALTURA INTERNATIONAL, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3165 (1/12/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-12-021 PACIFIC GAS AND ELECTRIC COMPANY, to increase gas and electric revenue requirements, rates, and charges for a pension contribution, effective January 1, 2006.	Ratesetting	Ratesetting	YES
A05-12-022 PACIFIC BELL TELEPHONE COMPANY, dba SBC CALIFORNIA, for authority pursuant to Section 851 of the Public Utilities Code to sell real property located at 470 West Portal Avenue, San Francisco, California.	Ratesetting	Ratesetting	NO
A05-12-023 BEST RATE COMMUNICATION, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-12-024 KING ISLAND GAS STORAGE, LLC, for a Certificate of Public Convenience and Necessity for Construction and Operation of Gas Storage Facilities.	Ratesetting	Ratesetting	YES
A05-12-025 LMDS HOLDINGS, INC., for a certificate of public convenience and necessity to provide competitive local exchange services and interexchange services combined resale and facilities basis.	Ratesetting	Ratesetting	NO
A05-12-026 SAN DIEGO GAS & ELECTRIC COMPANY, for authority to increase its Short-Term Borrowing authorization to an aggregate amount not to exceed Five Hundred Fifty Million dollars (\$550,000,000.) in addition to that amount otherwise authorized by Public Utilities Code Section 823(c).	Ratesetting	Ratesetting	NO
A05-12-027 HYPERCUBE, LLC, KMC DATA LLC (U 6592 C), for grant of Authority to complete a Series of Transactions resulting in the Transfer of Control of KMC Data LLC (U 6592 C) to Hypercube, LLC,.	Ratesetting	Ratesetting	NO
A05-12-028 YMAX COMMUNICATIOINS CORP., for a Certificate of Public Convenience and Necessity to operate as a Provider of Facilities-Based and Resold Local Exchange service within the State of California.	Ratesetting	Ratesetting	NO

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Resolution ALJ 176-3165 (1/12/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-12-029 CITY OF SACRAMENTO, to modify the 21st Street rail crossing of the Sacramento Regional Transit District and the Union Pacific Railroad from a one-way street to a two-way street in the City of Sacramento, Sacramento County.	Ratesetting	Ratesetting	NO
A05-12-030 SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E), for approval of a Power Purchase Agreement between the Utility and an Affiliate and for authority to recover the costs of such Power Purchase Agreement in rates.	Ratesetting	Ratesetting	NO
A05-12-031 DEMETROV, CHRISTIAN GEORGIEV, dba WESTERN EAGLE SHUTTLE/MARIN AIRPORT TRAN, NIKOLOV, GEORGI DEMETROV, dba WESTERN EAGLE SHUTTLE/MARIN AIRPORT TRAN, for authority to operate as a Passenger Stage Corporation between points in the Counties of Marin, San Francisco, Sonoma and Alameda, and the International Airports located in San Francisco, Oakland and San Jose; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A05-12-032 CITY OF SAN JOSE, for an Order authorizing the establishment of a grade separated bicycle and pedestrian crossing from approximate Mile Post (MP) 17.39 of the Union Pacific Rail Road Company (UPRR) on the east bank of the Guadalupe River Park.	Ratesetting	Ratesetting	NO
A05-12-033 GLOBAL TELELINKS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-12-034 BLACK, ROBERT, BULL, DEBORAH LYNN, CAQUETTE, WILLIAM H., EDELHAUSER, WILLIAM J., GUGASIAN, LEVON AND ZAROUHI, ORR, THOMAS JAMES, SHAFER, JAMES L., TOZER, MATTHEW B., Application of SELLERS (Collectively): Matthew B. Tozer, as Trustee of the Tozer Family Trust dated August 26, 2005, to sell all of the issued and outstanding shares of stock and thereby, to transfer control of Catalina Passenger Service, Inc., a California corporation, an authorized vessel common carrier, providing service between Newport Beach, California, on the one hand, and on the other hand, Santa Catalina Island, California, pursuant to VCC-47, to BUYERS (Collectively): Levon Gugasian and Zarouhi Gugasian, as Trustees of the Gugasian Trust (a revocable family trust) dated May 8, 1996, in accordance with Public Utilities Code Section 854.	Ratesetting	Ratesetting	NO
A05-12-035 WILTEL COMMUNICATIONS, LLC, for an order authorizing the sale and conveyance of a certain parcel of land in the City of Menifee, County of Riverside, pursuant to Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
A05-12-038 ALLTEL HOLDING CORPORATE SERVICES, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-12-039 SOUTHWEST GAS CORPORATION (U 905 G), for Authorization to Establish a Memorandum Account.	Ratesetting	Ratesetting	NO
A06-01-002 CRIMSON CALIFORNIA PIPELINE, L.P., pursuant to Section 817 and Section 851 of the Public Utilities Code for authority to issue evidences of indebtedness and to encumber public utility property.	Ratesetting	Ratesetting	NO
A06-01-003 SPRINT COMMUNICATIONS COMPANY, L.P. (U 5112 C), to Transfer its California Local Small Business Resale and UNE-P-Based Sprint Complete Sense sm and Sprint Complete Sense for Business sm Customer Bases	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3165 (1/12/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
and to Withdraw from Service.			
A06-01-004 PARK WATER COMPANY (U 314 W), for authority to increase rates charged for Water Service by \$1,680,500 or 8.21% in 2007; by \$571,181 or 2.57% in 2008; and by \$658,677 or 2.88% in 2009. (TEND 1405)	Ratesetting	Ratesetting	YES
A06-01-005 CALIFORNIA-AMERICAN WATER COMPANY (U 210 W), for authority to increase rates charged for Water Service in its Los Angeles District by \$2,020,466 or 10.88% in the year 2007; by \$634,659 or 3.08% in the year 2008; and by \$666,422 or 3.14% in the year 2009. (TEND 1305)	Ratesetting	Ratesetting	YES
A06-01-006 SUNESYS, INC., for a certificate of public convenience and necessity to provide facilities-based interLATA and intraLATA interexchange services and competitive local exchange services.	Ratesetting	Ratesetting	NO
A06-01-007 CEBRIDGE TELECOM CA, LLC, for a Certificate of Public Convenience and Necessity to provide Facilities-Based and Resold Competitive Local Exchange Service, Access and Interexchange Service in the State of California.	Ratesetting	Ratesetting	NO